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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,289	05/24/2006	Doron Tam	66599-0005	5837
10/29/759003/17/2011 RADER, FISHMAN & GRAUER PLLC 39533 WOODWARD AVENUE SUITE 140 BLOOMFIELD HILLS, MI 48304-0610				
EXAMINER RANDALL, JR., KELVIN L				
ART UNIT 3651		PAPER NUMBER		
NOTIFICATION DATE 03/17/2011		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentmail@raderfishman.com

amd@raderfishman.com

bhreceptionist@raderfishman.com

Office Action Summary

Application No.

10/580,289

Applicant(s)

TAM ET AL.

Examiner

Kelvin L. Randall, JR.

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 10, 11, 19-25, 27 and 28 is/are rejected.
- 7) ☒ Claim(s) 29 and 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Transposition of Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hans Marker (1,190,661 - hereinafter Marker) in view of Brenner and Von Falkenhausen et al. (7,484,640 – hereinafter Falkenhausen).

Re Claims 1 and 21-23:

Marker teaches a plate (19) vertically mounted on a frame (10, 11) (Examiner notes that it is obvious to one of ordinary skill in the art that Marker's dispenser is capable of being held in an upright vertical position), said plate (19) defining a vertically oriented planar supporting surface and an opposite vertically oriented planar surface; a rotatable shaft (24) mounted on top of said frame; at least one roller (23) non-rotatably affixed to said shaft and arranged to engage a product of a stack of products nearest said planar supporting surface; means (26) for rotating said shaft (24) whereby said nearest product is shifted over said at least one roller (23); and when said rotatable shaft (24) rotates, said nearest product is shifted over said at least one roller (23) and descends

down along said vertically oriented opposite planar surface side of said plate (19), said plate being disposed between said dispensed nearest product and the stack of products (see Figs. 1, 2, and 3), but fails to teach a bag detector coupled to the means for rotating said shaft, such that when the bag detector detects the presence of a bag, the rotatable shaft stops rotating, wherein the stack of bags is held against said vertically oriented planar bag-supporting surface. Examiner further notes that the intended usage of a bag has not been afforded the effect of a structural limitation as the body of the claim fails to set forth structure that refers back to or draws life and breath from the preamble. See In re Casey, 152 USPQ 235 (CCPA 1967); Kropa v. Robie, 88 USPQ 478 (CCPA 1851).

Brenner teaches a bag detector (42) coupled to a means for rotating a shaft, such that when the bag detector detects the presence of a bag, the rotatable shaft stops rotating (Examiner notes the shaft as engaging wheel (34) through rotatably journaled bearing (33)) after a single bag has been dispensed (see col. 4 lines 15-31 and col. 5 lines 40-52). Re Claim 22: Brenner teaches drivingly coupling a motor (34) to said rotatable shaft (100), such that actuation of said motor cause said rotatable shaft to rotate; and causing said at least one roller (32) to engage one bag in said stack of bags, such that rotation of said rotatable shaft causes said at least one roller to remove said bag from said stack of bags (col. 4 lines 15-53). Re Claim 23: Brenner teaches wherein said step of automatically stopping includes automatically stopping said motor in response to

dispensing a single bag from the stack (col. 5 lines 47-53). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to have been motivated to combine the teachings of Marker with that of the bag detector of Brenner, because they are in the same art and one of ordinary skill in the art in looking for a transition from a manually operated dispenser to a coin operate automatic dispenser would have seen the combination of the two and the use of a sensor as a means as obvious within the dispensing art.

Falkenhausen teaches wherein a stack of products are held against a vertically oriented planar supporting surface (36) (see Fig. 3). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to have been motivated to combine the teachings of Marker with that of Brenner and Falkenhausen so as to ensure a bearing connection between a roller and nearest product.

4. Claims 10, 19, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marker in view of Brenner and Falkenhausen and further in view of Lundberg.

Re Claims 10, 19, and 28:

Marker in view of Brenner and Von Falkenhausen teaches the device of claim 1, but fails to teach a bag retaining element that includes a bag retaining bar for engaging and retaining said stack of bags against said at least one roller before and during dispensing.

Lundberg teaches wherein a bag retaining element (10) includes a bag-retaining bar (10) for engaging and retaining a stack of sheets against said at least one roller (13) before and during dispensing (see Fig. 1). Re Claim 19: Lundberg teaches an elongate guide (14) mounted adjacent said rollers to guide dispensed bags away from the rollers (see Fig. 1). Re Claim 28: Lundberg teaches a retaining element having a 1st end pivotally connected to the frame and a second end, and the retaining element being spring biased towards a closed orientation (see Fig. 1). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to have been motivated to combine the teachings of Marker in view of Brenner and Falkenhausen with that of Lundberg so as to ensure proper support for a flexible material in stacked formation.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marker in view of Brenner, Falkenhausen, and Lundberg, and further in view of Vanjo.

Re Claim 11:

Marker in view of Brenner, Falkenhausen, and Lundberg teaches the device of claim 10, but fails to teach wherein said bag-retaining bar is coupled to an arm pivotally coupled to said plate.

Vanjo teaches a bag-retaining bar (at 33) is coupled to an arm (at 32) pivotally coupled to a plate (Examiner notes that through the relation of a common member (side wall)

Vanjo's arm is coupled to plate member (at 25'). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to have been motivated to combine the teachings of Marker in view of Brenner, Falkenhausen, and Lundberg with that of Vanjo so as to provide an alternative design choice as commonly known within the art.

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marker.

Re Claim 20:

Marker teaches holding a stack of products against at least one roller (23) non-rotatably affixed to a rotatable shaft (24) coupled to a plate (19) vertically mounted on a frame (10, 11) and defining a vertically oriented planar supporting surface and an opposite vertically oriented planar surface; dispensing one product from said stack of products nearest said vertically oriented planar supporting surface to said opposite vertically oriented planar surface of said plate (19) by rotating (26) said rotatable shaft (24) so as to shift said nearest one product over said at least one roller (23) such that said nearest one product descends down along said opposite vertically oriented planar surface; and automatically stopping rotation of said shaft (24) after dispensing said nearest one product (see Figs. 1-3). Examiner further notes that the intended usage of a bag has not been afforded the effect of a structural limitation as the body of the claim fails to set forth structure that refers back to or draws life and breath from the preamble. See In re Casey, 152 USPQ 235 (CCPA 1967); Kropa v. Robie, 88 USPQ 478 (CCPA 1851). Therefore, it would have been obvious for one of ordinary skill in the

art at the time the invention was made to have been motivated to use Marker's dispenser to dispense various products as commonly known within the art.

7. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marker in view of Coleman.

Re Claims 24 and 25:

Marker teaches the device of claim 20, but fails to teach wherein at least one roller is non-rotatably affixed to a second rotatable shaft, said second shaft is mounted parallel to said rotatable shaft, said rotatable shaft is disposed between said second rotatable shaft and said one bag from said stack of bags, and said at least one roller on said rotatable shaft is coupled to said at least one roller on said second shaft, whereby rotation of said rotatable shaft causes concomitant rotation of said second shaft.

Coleman further in view teaches a second rotatable shaft (75) mounted parallel to a rotatable shaft (73), said rotatable shaft (73) is disposed between said second rotatable shaft (75) and said one bag from said stack of bags (see Fig. 7); at least one roller (74) non-rotatably affixed to said second shaft (75); wherein each roller on said rotatable shaft (73) is coupled to a roller on said second shaft (75) (see 82 of Fig. 7), whereby rotation of said rotatable shaft causes concomitant rotation of said second shaft (see Fig. 7 and paragraphs [0055 and 0056]). Re Claim 25: Coleman teaches drivingly coupling a manual (86) rotation means to said rotatable shaft, such that actuation of

said manual rotation means rotates said shaft (see Fig. 7). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to have been motivated to combine the teachings of Marker with Coleman's disclosure because they are within the same art one of ordinary skill in the art looking for a commercial or public use dispenser would see the combination as a way to increase the efficiency of the dispenser.

Allowable Subject Matter

8. Claims 29 and 30 are allowed.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelvin L. Randall, JR. whose telephone number is (571)270-5373. The examiner can normally be reached on Monday-Friday 8:30 AM to 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571)272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gene Crawford/
Supervisory Patent Examiner, Art
Unit 3651

/K. L. R./
Examiner, Art Unit 3651

